

AGENDA

ORDINARY MEETING OF THE
HORSHAM RURAL CITY COUNCIL

on

17 June 2013

5.30pm

at

Civic Centre

HORSHAM

COUNCILLORS are respectfully requested to attend the Ordinary Meeting of the Horsham Rural City Council to be held in the Municipal Chambers, Civic Centre, Horsham at 5.30pm on 17 June 2013.

Order of Business

1. Reading of prayer and the acknowledgement of country statement
2. Welcome to distinguished guests or persons in the public gallery
3. Apologies and request for Leave of Absence
4. Confirmation of minutes and signing thereof
- (A) Minutes of an Ordinary Meeting of the Horsham Rural City Council held in the Municipal Chambers, Civic Centre, Horsham at 5.30pm on 3 June 2013
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CLOSE



PETER F BROWN
Chief Executive

Financial

Covered with grant funding.

Provided for information of Council.

9.3.2 COMMUNITY (AMENDMENT) LOCAL LAW 4 TO AMEND COMMUNITY LOCAL LAW

AG Bawden File Ref: 07/01/086

Purpose

For Council to adopt and make Community (Amendment) Local Law 4 which amends Council's Community Local Law 3, having received no submissions on its proposal to make this Local Law. The purpose of this amendment focuses on clarifying how the law is applied and enforced in relation to addressing the issue of unsightly land and dangerous land.

Background

Council considered a report in confidence from the Environment Health Officer, Luke Mitton on addressing a recurring issue on a Horsham property in an unsightly and dangerous condition at its meeting on 4 February 2013. The report referred to legal advice received that, as a result of the Health Act being replaced by the Public Health and Wellbeing Act 2008, these matters no longer meet the requirements of a nuisance under the new legislation. The advice also indicated there may be limitations under Council's Community Local Law 3 in enforcement of notices relating to unsightly, dangerous land.

As such, Council resolved to amend Local Law No. 3 to ensure that Council has the ability to follow through with enforcement and secure the recovery of costs under the Local Government Act.

Council engaged Helen Proctor of Practical Governance Solutions (who prepared our Community Local Law), in liaison with a small working group of officers, to prepare an amending Local Law. She also prepared a Discussion Paper or community impact paper which sets out the purpose and objectives of the amendment in accord with the State Governments best practice guidelines. This also addresses the requirements under the Charter of Human Rights and Responsibilities Act 2006.

Discussion

The proposed amending Local Law and discussion paper was endorsed for public comment by Council at its meeting of 6 May 2013. Under Section 223 of the Local Government Act, Council are required to issue public notice inviting submissions for

a period of not less than 28 days. The due date was 7 June 2013. The Consultation Draft Community Local Law and Discussion Paper are attached as **Appendix "9.3B"**. It is advised that no public submissions were received. Council are therefore able to proceed and make this Community (Amendment) Local Law 4.

Consultation

A Council working group comprising myself, Community Services, Local Laws and the Environmental Health Officer have been progressing these arrangements and liaising with Council's Executive Management Group. Advice and preparation of the amending Local Law has been provided by a highly experienced and regarded consultant in this field.

Public notice has been given inviting submissions on the amending Local Law.

Financial

The amendment to the Local Law will enable Council enforcement of notices and recovery of costs in relation to rectifying unsightly or dangerous land.

Recommendation

Council having complied with Section 223 of the Local Government Act and received no public submissions, adopt and make Community (Amendment) Local Law 4.

9.3.3 CULTURAL (EDUCATION) EXCHANGE WITH NUJIANG PREFECTURE, YUINNAN PROVINCE

A Bawden

File Ref 04/01/060

Purpose

To brief Council on an approach from the Peoples Government of Nujiang Prefecture to initiate an exchange program with Horsham.

Background

In 2008, Council were invited to join four other Victorian Councils in a trade mission and delegation to Yunnan Province in south west China.

After significant planning and interest shown by various sectors in the municipality, we participated in this mission together with representatives of the Wimmera Development Association, Wimmera Health Care Group, University of Ballarat and the Manufacturers Network. This commenced with us having a Horsham stand at the 3 day International Trade Fair in Kunming, the capital of Yunnan Province together with other stands from the Campaspe Shire and Mildura City and a presence by industry and educational groups from our regions.

HORSHAM RURAL CITY COUNCIL COMMUNITY (AMENDMENT) LOCAL LAW NO. 4 OF 2013

PART 1 - PRELIMINARY PROVISIONS

1. Title

This is the Community (Amendment) Local Law No. 4 of 2013.

2. Objectives

The objectives of this Local Law are to provide for the peace order and good government of Horsham Rural City by:

- (1) amending the Community Local Law No. 3 of 2011 (the principal Local Law) to clarify and better apply some of its provisions concerning the condition and appearance of land; and
- (2) protecting the community from unsightly and hazardous conditions on land that contributes to the deterioration of neighbourhoods and reinforcing ways in which abatement of those conditions can be achieved.

3. Authorising Provision

This Local Law is made under Section 111(1) of the **Local Government Act 1989**.

4. Commencement, revocation and area of operation

This Local Law:

- (a) commences on (date to be inserted); and
- (b) unless it is revoked sooner, this Local Law ceases to operate on (date to be inserted which could be the date of the principal Local Law); and
- (c) operates throughout the whole municipal district.

PART 2 – AMENDMENT OF THE COMMUNITY LOCAL LAW NO. 3

5. Repeal of definition

In clause 1.8 of the principal Local Law, the definition of "Clean Up Order" is repealed.

6. Substitution of clause 3.1

For clause 3.1 of the Principal Local Law substitute:

"Condition and appearance of Land

- 3.1 (1) The owner or occupier of any land within the municipal district must not use the land or allow the condition or appearance of the land to become:

- (a) a risk or dangerous to the health of people or other land in the vicinity;
 - (b) unsightly or detrimental to the overall amenity and appearance of other land in the vicinity;
 - (c) a nuisance to people or other land in the vicinity.
- (2) If an Authorised Officer considers that there is a contravention of subclause (1), a Clean Up Notice may be issued.
- (3) In considering whether there has been a contravention of subclause (1), an Authorised Officer may take into account whether the condition and appearance of the land results from factors including:
- (a) the extent of rubbish and refuse that has accumulated on the land;
 - (b) whether the amount of second hand goods or other materials not usually associated with the maintenance of the land are being kept in a way that could be considered as hoarding or offensive;
 - (c) whether derelict motor vehicles, machinery or parts or more than 2 unregistered vehicles, or in the case of land outside a built up area, more than 7 unregistered vehicles, are stored on the land;
 - (d) the extent of excavation material that has accumulated on the land;
 - (e) whether noxious or environmental weeds are growing on the land or there is unkempt vegetation on the land;
 - (f) whether offensive odours are coming from the land;
 - (g) whether premises or buildings on the land are in a dilapidated state or in a state of disrepair or general neglect or have been damaged or defaced;
 - (h) there is graffiti on any building, structure or side fence on the land and the graffiti is visible from any road;
 - (i) there is obsolete advertising signs on the premises and such matter or condition is visible from any road."

7. Substitution of Clause 3.2

For clause 3.2 of the principal Local Law substitute:

"Clean up Order

- 3.2 A Clean Up Order must be in writing, signed and dated by an Authorised Officer and must contain information including:
- (a) information about why the condition or appearance of the land is considered to be a contravention of the Local Law;
 - (b) a description of the work required to be undertaken to remedy the breach;

- (c) the time within which the work required to be undertaken to remedy the breach must be completed;
- (d) advice to the owner or occupier that he or she may make representations about the Clean Up Order to the Chief Executive Officer or a person nominated by the Chief Executive Officer;
- (e) a statement that failure to comply with the Clean Up Order is an additional offence under the Local Law and stating the amount of the penalty;
- (f) advice that if the person fails to carry out the remedial work required by the Order, that the Council may undertake the work and recover the cost as a debt due to the Council."

8. Amendment of Clause 9.1

In clause 9.1 of the principal Local Law:

- (a) for paragraph (b) substitute:
 - "(b) fails to do something which is required to be done by this Local Law, including failing to undertake works required in a Clean Up Order;"
- (b) for paragraph (e) substitute:
 - (e) fails to comply with a direction of an Authorised Officer under clauses 8.5 or 8.6; or"

9. Amendment to clause 9.9

For clause 9.9 of the principal Local Law substitute:

"Delegations

9.9 For the purposes of this Local Law the Council delegates to:

- (a) The Chief Executive Officer and Executive Managers, the powers and duties of the Council under this Local Law;
- (b) Authorised Officers, the power to issue or refuse permit applications, apply conditions on a permit, require additional information, exercise discretions and give directions and issue notices concerning any matter under the Local Law.

HORSHAM RURAL CITY COUNCIL
DISCUSSION PAPER
COMMUNITY (AMENDMENT) LOCAL LAW NO. 4 2013

INTRODUCTION:

In 2011 Council undertook a review of its existing General Local Law and following community consultation and completion of mandatory statutory processes required under the *Local Government Act 1989* (the Act), made the Community Local Law No. 3. 2011.

Local Laws are generally intended to address "low level" type offences and usually only used as an enforcement tool as a last resort. There are a number of ways compliance with requirements in a local law is achieved including discussions, informal and formal warnings, issuing a notice to comply or in Horsham's case, a "clean up notice" or "directions" from Council's Authorised Officers.

Practical experience with the Community Local Law has identified some areas where specific controls in the Local Law need to be strengthened and Council powers clarified. The Community (Amendment) Local Law No. 4 is, as the name suggests, an amendment of the principal Local Law to address possible limitations in applying the Local Law that have emerged.

When a Council amends a Local Law, the Act requires that a Council put the proposed amending Local Law through the same process as if it were making a new Local Law. This means that as a minimum, there is community consultation and that an information paper to assist that consultation is provided to inform community consultation.

Any review of a local law is undertaken having regard to Guidelines published by the Minister for Local Government. Key matters to be addressed in the review include:

- whether there is still a problem to address;
- whether the objectives are still being met;
- if the impacts are as expected; and
- if the Local Law is still the most appropriate approach.

Councils as a "public authority" under the *Charter of Human Rights and Responsibilities Act 2006* ("the Charter") must also ensure that a local law made by it is not incompatible with a human right or, in making a decision, fail to give proper consideration to a relevant human right. If a proposal restricts or interferes with a right, consideration will need to be given to determining whether the restrictions are reasonable and demonstrably justified under the Charter.

This Paper has been prepared to assist discussions with Councillors about the proposed changes. It will also be used to inform and assist the community in its review of the proposed Local Law.

REASON FOR THE REVIEW

Having regard to the key matters referred to above, there is some concern that the provisions in the Community Local Law No. 3, specifically those relating to unsightly premises, do not adequately address

the areas they were intended to and as a result, there are difficulties with their application, interpretation and enforcement.

The focus of the proposed amending Local Law is on the condition and appearance of land, a problem that is not unique to Horsham Rural City. Unsightly land and dangerous land is a problem that exists in almost all municipalities in Victoria and according to research, is a problem that is testing local government across the world. Councils in the United Kingdom and the United States have local laws or ordinances that are designed to reduce the impact on communities from unsightly premises and more recently, from what is being termed "hoarding"¹. Hoarding is generally where excess items and goods stored on land (and in some cases even excess numbers of animals), create health hazards or public amenity problems because the excess can no longer be contained within a building and spill out onto land and in some cases, land in other ownership.

The current provisions in Horsham's Community Local Law gives Council a process to require the owner or occupier of land to clean up the land because of its condition and appearance. The circumstances where a clean up order may be issued arise from conditions on the land where there is rubbish and refuse, there is unkempt vegetation that is detrimental to the amenity of the area, environmental or noxious weeds, dilapidated buildings that cause an adverse visual impact on the amenity of the area, excessive derelict vehicles or machinery and graffiti. In addition to the "look" of a property, there might be conditions on the land that constitute a danger to health or property.

Council might exercise its "clean up" powers of its own volition, but mostly it is exercised in response to complaints and concerns from residents living close to unsightly land and buildings. These residents are affected by not only the visual impacts from such properties, but also potential health hazards and risks, such as fire risk from land where there is such an accumulation of rubbish and materials or vegetation or both.

There is also a concern that such properties generally detract from the overall appearance of a town which can adversely affect people wanting to do business in an area and also on visitors. These matters are usually raised with Council by local chambers of commerce, progress associations and so on.

Residents and community groups are looking to the Council to enforce the requirements in the Local Law. Because of concerns raised about the lack of clarity of the current provisions, it has been decided to revise the Local Law to remove any doubts about how the law is applied and enforced.

OVERVIEW OF THE LOCAL LAW

The new provisions will:

- Include a specific offence where an owner or occupier of land allows the condition and appearance of land to be or become:
 - (a) a risk or dangerous to the health of people or other land in the vicinity;
 - (b) unsightly or detrimental to the overall amenity and appearance of other land in the vicinity;

¹ There is currently debate about compulsive hoarding and where it fits within medical descriptions of certain disorders. It is not currently classified as a distinct medical disorder, but compulsive hoarding is the subject of significant research currently being undertaken.

- (c) a nuisance to people or other land in the vicinity.

The circumstances that will be taken into consideration when deciding whether the condition and appearance of land fall into some or all of the descriptions above and which will trigger a clean up order being issued remain substantially the same as the current Local Law. That is, the extent of rubbish and refuse that has accumulated on the land, the amount of second hand goods being kept on the land, the number of unregistered vehicles kept on the land, excavation material that has accumulated, environmental weeds or unkempt vegetation, dilapidated buildings, graffiti etc.

- Include a specific reference to a "clean up order" in the offence provisions in clause 9.1 of the principal Local Law. The current provisions make it an offence to "fail to do something which a provision of the local law requires to be done". There was some concern that because there was no specific reference to a "clean up order" in the existing provision that it would be difficult to say that failure to undertake work required by a clean up order constituted an offence. While the effect of clause 9.1 is debatable, the amendment removes any doubt that failure to comply with a clean up order is an offence against the Local Law.
- Amend the current requirements about the form and content of a clean up order. Arguably the term "clean up order" is self explanatory, but some doubt was expressed about the effectiveness of the current provision and what it is intended to achieve. The information to be included in a clean up order will also make it clear that if a person fails to do the work required by the order, the Council may do the work and recover the cost.
- Amend clause 9.9 of the principal Local Law to ensure that powers delegated from the Council, specifically to Authorised Officers appointed under the Act, are adequate and appropriate for the purposes of enforcing the Local Law.

The attachment addresses some of the key matters that the Guidelines require be taken into consideration and assessed in a review of a Local Law.

CONCLUSION:

The proposed new Community Local Law is intended to achieve public health and safety and amenity objectives for the residents of the Horsham Rural City. The controls are minimal and only deal with those matters that are necessary to achieve the objectives. The Council's approach is to achieve the objectives by discussion and co-operation and only use the enforcement powers when the preferred approach is not achieving community objectives.

ATTACHMENT TO THE DISCUSSION PAPER

State legislation:

The proposed amendments have been reviewed against relevant State legislation to ensure that there is no duplication or overlapping and to ensure that there is no inconsistency.

The **Public Health and Wellbeing Act 2008** contains powers for Councils to deal with “nuisances” and imposes a duty on Councils to “remedy as far as reasonably possible” nuisances in the municipal district. There is a legal view that the relevant provisions of the **Public Health and Wellbeing Act 2008** do not provide adequate and clear powers to Councils to deal with “low level” type nuisances and in particular, nuisances created by “inert” material on land, such as that often found on unsightly land.

The amendments to the Community Local Law will provide Council with a more effective and certain mechanism for addressing visual nuisances and potential risks to public safety caused by the conditions existing on some land.

Schedule 8 of the Local Government Act requires that a local law follow current drafting practices used in primary legislation in Victoria. Insofar as the amending Local Law itself is concerned, the proposed Local Law is consistent with the approach followed in amending legislation of the State Government.

Objectives of the Local Law:

The objectives of the Local Law are to:

- amend the Community Local Law No. 3 of 2011 to clarify and better apply some of its provisions concerning the condition and appearance of land; and
- protect the community from unsightly and hazardous land that contributes to the deterioration of neighbourhoods and reinforcing ways in which abatement of those conditions can be achieved.

The objectives are consistent with the functions and powers of a Council as expressed in the Local Government Charter in Part 1A of the Act. They are intended to address residents’ well being, protect community amenity and lifestyle and improve the overall quality of life of people in the local community.

The objectives are also concerned with ensuring that Council has eliminated as far as possible, risks associated with enforcement by removing doubt about how the current provisions can be applied. There is an obligation on Councils to ensure that Council resources are used efficiently and effectively. The amendments will provide Council with an opportunity to enforce the requirements in the general interests of the community and minimise the current perceived risk associated with enforcement.

Comparison with other Councils:

As noted earlier, the situation with unsightly land and dangerous land is not unique to Horsham. All Councils in Victoria have local laws that contain requirements directed at eliminating unsightly or dangerous land, including those Councils bordering on Horsham Rural. Because of specific experiences of each Council, there are some variations between local laws as to the key theme of what constitutes “unsightly” or “dangerous” land. The controls of other Councils are directed at ensuring that the overall amenity of a neighbourhood is not affected by the condition and appearance of a particular property or public safety is not compromised because of excess amounts of vegetation or other substances.

Some local laws use a formalised staged approach to enforcement which commences with a discussion with the alleged offender providing an opportunity to improve the appearance and condition of the land. If the discussion does not result in improvements, a warning may be issued to the alleged offender, which may or may not be a formal warning under the **Infringements Act 2006**, followed by a notice to comply and as a last resort, an infringement notice may be issued. Other local laws enable a Council to require specific remedial measures be applied such as screening by planting or fencing.

Local Law performance:

As noted earlier, the **Public Health and Wellbeing Act Health Act** contains specific requirements about dealing with nuisances. The ability to use that Act, which involves initial enforcement in a Magistrates Court, may not always be an option that is available (subject to legal advice) or appropriate to particular circumstances being dealt with.

Sometimes conditions on a planning permit might be sufficient for enforcement of unsightly or dangerous premises, especially of unsightly industrial or commercial properties, but a planning permit may not have been issued in all cases, especially if the land under review is residential land.

Local Laws need the flexibility to deal with the individual circumstances of each case of unsightly premises or dangerous premises. Enforcement of local law provisions associated with unsightly premises and dangerous land is rarely straight forward, so prosecution for an offence against the local law is usually a last resort. To the person occupying the land, the property may not be unsightly at all. In some cases it may not simply be about getting a property to a standard that is comparable with other properties in the vicinity. In some cases Council has to be mindful of the circumstances and resources of the alleged offender, while at the same time balancing the concerns and needs of other residents who are affected by what is happening at a particular property.

A local law which provides a number of enforcement measures provides a better option for dealing with circumstances which may, in some cases, require more sensitive handling than others, particular those resulting in court proceedings.

Risk assessment:

The extent of the risk that the amending Local Law is trying to address is rated as low to moderate, but proceeding with the Local Law in its current form is simply not worth the risk. There are differing legal opinions about the effectiveness of the current provisions associated with unsightly or dangerous land in Local Law No. 3, which creates an enforcement risk if a matter proceeds to court. If the current provisions leave room for debate about their application and enforceability, then they need to be amended to remove that scope, particularly if enforcement needs to go beyond a discussion and "negotiation" stage.

The amended Local Law will provide far more certainty for Council officers to deal with unsightly or dangerous land. The amendments will not guarantee instant resolution and success but they will put any last resort legal processes on a more certain footing. In turn, the overall risk to people and property in the vicinity of unsightly or dangerous premises and in turn the community, will be able to be reduced more effectively.

Penalties:

The amending Local Law does not introduce any new penalties or increase the amount of existing penalties. If an infringement notice is issued for unsightly or dangerous premises the amount of the penalty is 1.5 penalty units (\$150). In addition, a person who fails to undertake the work required by a clean up order could incur additional costs if the Council is forced to do the work required by the Order.

If the matter proceeds to court, the penalties applicable for a first offence dealt can be up to 4 penalty units (\$400) and for a second or subsequent offence, up to 20 penalty units (\$2000).

The penalty amounts, including those payable where an infringement notice is issued, are generally consistent with those applying in neighbouring Councils. In some cases, the penalties are slightly higher and in some cases, slightly lower than those of some of the neighbouring councils.

Consultation and the review process:

As the proposed Local Law amends one specific element of the principal Local Law, there has not been detailed consultation. It has been discussed internally with key Council officers and with the Council. It will be subjected to the statutory process required by the Act.

Restriction on competition:

Schedule 8 of the Act requires that a local law be assessed for restriction on competition. A local law must not restrict competition unless it can be demonstrated that the benefits of the restriction outweigh the costs and the objectives of the local law can only be achieved by restricting competition.

It is possible that requirements in a Local Law to keep particular premises (commercial and industrial) in a certain condition may only be achieved by owners or occupiers incurring extra expense to pay for professional maintenance services, fence or screen plant property. It is possible that a home business may also be impacted by the costs of compliance. When considering the range of factors to determine whether the proposal is a restriction on competition (ie: likely to deter entrants into the market, constrain the behaviour of businesses, limit the choice of consumers etc) it is unlikely that the proposed amendments would satisfy the applicable "tests".

There is no capacity to adequately measure and quantify the impact of the amending Local Law on business. Some of the costs associated with the condition and appearance of land may not be entirely attributable to the Local Law requirements, but from other sources such as planning requirements. Further, standards relating to the condition and appearance of land from which businesses are run have changed. The cost of maintenance of premises is likely to be included as a running cost of a business and is likely to be small when compared to other costs of running a business.

Council incurs expenditure by investigating and dealing with complaints. In extreme cases, Council (and ultimately the community) may incur significant costs in cleaning up a property and it may not be possible to recover such costs.

The cost to communities from fire which could be caused by certain conditions being allowed to exist on land are not measurable and will be dependent on the loss or damage caused. (It should be noted that Council has specific duties in relation to fire prevention under the **Country Fire Authority Act 1958**.)

Some landowners claim that their properties are devalued as a result of unsightly premises. Some progress associations and chambers of commerce submit that unsightly premises can have adverse economic impacts on a town. It is also not possible to quantify these claims.

In conclusion, the proposed amendments are not considered to be a restriction on competition. Even if a contrary view was submitted, the Local Law amendments are the least restrictive means of meeting the objectives of community well being and protection of amenity and community safety.

Charter of Human Rights:

Prior to the Community Local Law No. 3 being enacted by Council in 2011, an analysis of the Local Law and specific provisions in it was undertaken to determine whether the proposals were incompatible with a human right under the Charter. The provisions relating to the condition and appearance of land and the ability of Council to issue a clean up notice were specifically reviewed against section 20 of the Charter.

Section 20 states:

"A person must not be deprived of his or her property other than in accordance with law."

The earlier review stated that *"Under the Charter "property" has a wider meaning than just "land" and extends to personal possessions, contractual rights and so on. On a basic level, "deprivation" can occur if there is a reduced ability for a person to use their property, including being able to obtain a profit from it. Examples where this might occur come from land use planning controls. This right is interpreted to encompass arbitrary deprivation and interference not undertaken in accordance with any relevant laws provided that the law itself is not arbitrary or that any powers associated with the law are not exercised arbitrarily."*

The earlier review concluded that *"In terms of the storage of second hand goods, machinery or equipment, it might be argued that the requirements are a limit or restriction on a person's property rights because they require conformity with standards and interfere with a person's ability to occupy and use their land in a way they consider appropriate. After all, "One man's trash is another man's treasure."*

The contrary view and the conclusion supported is that the proposed requirements are not an unlawful deprivation of property of the sort contemplated by the Charter. A person is not deprived of the opportunity to use land for a particular purpose by the Local Law but needs to ensure that the land or buildings on it do not fail to comply with the general standards in the proposed Local Law. Further, an opportunity will be provided to an owner or occupier to take remedial action so that standards to an appropriate level, having regard to the general character, amenity or safety of the neighbourhood can be achieved."

The proposed amendments do not change the basic provisions in the principal Local Law. That is, an owner or occupier must not keep land or allow the condition or appearance of land to become a risk to others, unsightly or detrimental to the overall amenity and appearance of other land in the neighbourhood or a nuisance to other people or land in the vicinity. The primary focus of the amendments is about clarifying and improving the powers of the Council and Authorised Officers for enforcement purposes.

If discussions and negotiation about remedial work to be undertaken do not resolve the problem, an Authorised Officer has the power to issue a clean up order requiring that specified remedial works to be undertaken. Compliance with the clean up order provides an opportunity to remedy the problem, recognising that the Local Law provides an opportunity for a person to make representations to the Chief Executive Officer about the order, which could result in modified requirements that recognise individual circumstances, including hardship. The Local Law recognises and is not inconsistent with the right to a fair hearing under the Charter.

There has been extensive discussion at officer level about the application and enforcement of these controls, recognising that there could be many reasons why a property is considered unsightly or dangerous. For some owners or occupiers, it could be just bad "housekeeping". For others, it could be a by product of what is happening on the land (eg: wreckers yard or tyre retailer). Other instances of unsightly or dangerous land arise from absentee owners where it is either too difficult or there is no interest in maintaining land, which in many cases, could be of little value. In others, it could be as a result of compulsive hoarding.

To the person occupying the land, the property may not be unsightly at all. In some cases it may not simply be about getting a property to a standard that is comparable with other properties in the vicinity. In other cases Council has to be mindful of the circumstances and resources of the alleged offender, while at the same time balancing the concerns and needs of other residents in the vicinity who are affected by what is happening at a particular property.

The Local Law provides the flexibility to deal with the individual circumstances of each case of unsightly premises or dangerous premises. Even if it could be said that the proposed amendments to the principal Local Law are incompatible with a human right, the controls are justified on the basis of the stated objectives and the overall community outcomes that they are intended to achieve. The proposed Community (Amendment) Local Law No.4 is not considered incompatible with the Charter.